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UNITED STATES DEPARTMENT OF AGRICULTURE
 FOREST SERVICE
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STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

VIRGINIA

(Serial 1—Through Reg. Sess., 1914)

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PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars, is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This division comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forests fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

SEC. 1 CH. 195, L. 1914.

Office of State Forester—Geological commission, personnel.—Be it enacted by the general assembly of Virginia, That there be, and is hereby, created the office of State forester, which shall be under the direction and control of the State geological commission, composed of the governor (who shall be ex-officio chairman of said commission), the president of the University of Virginia, the president of the Virginia Polytechnic Institute, the superintendent of the Virginia Military Institute, and one citizen from the State at large, who shall be appointed by the governor for a period of four years.

SEC. 2.

Forester, appointment; qualifications.—The State forester shall be appointed by said commission, and he shall be a technically trained forester, and shall have both a practical and theoretical knowledge of forestry.

SEC. 3.

Bond.—The State forester, before entering upon the performance of the duties of his office, shall execute bond to the Commonwealth with surety or sureties worth at the time not less than twenty thousand dollars, to be approved by the governor and filed in the office of the secretary of State, conditioned for the faithful performance of the duties of his office, upon which, for any breach thereof, action may be instituted from time to time and recovery had to the extent of the damage sustained by the Commonwealth or others. Said bond shall be examined and the sureties approved by the governor once in each year, and he may at any time, when he deems the bond insufficient, require the execution of a new bond or additional sureties on the old one.

SEC. 4. * * *

Forestry work of geological commission.—Said commission shall observe, keep in view, and, so far as it can, ascertain the best methods of reforesting cut-over and denuded lands, foresting waste lands, preventing the destruction of forests by fire, the administering forests on forest principles, the instruction and encouragement of private owners in preserving and growing timber for commercial and manufacturing purposes, and the general conservation of forest tracts around the headwaters and on the watersheds of all the water courses of the State.

SEC. 7.

Waters: Duties of commission concerning.—It shall be the duty of said commission to make or cause to be made a careful investigation of the streams and navigable rivers within and bordering upon the State, of the methods, means, and cost of improving the same; of preventing their pollution; of conserving the water supply thereof; of using the same for the production of power, and how and in what ways the said streams and rivers may be made of most value to the State, and to the people thereof.

SEC. 8.

Reports and recommendations—Bulletins, etc.—Said commission shall preserve all evidence which it may take with reference to conserving the forest and the water supply of the State and the methods best adapted to accomplish those objects, and it shall make report of its doings, conclusions, and recommendations to each session of the general assembly, and, from time to time, publish, in a popular manner, and print for public distribution, in bulletin or other form, such of its conclusions and recommendations as may be of immediate public interest.

SEC. 12.

Receipts and expenditures; report on.—The said commission shall keep a full and accurate account of its receipts and expenditures, and it shall make a full and accurate and complete report to each session of the general assembly, showing in detail its receipts from all sources and its expenditures and the purposes for which expenditures have been made.

Civil engineer, surveyor, assistants.—It shall also have power to employ a civil engineer and surveyor from time to time, with his necessary assistants, whenever the necessities of the case may require.

SEC. 13.

Cooperative work—Expenses.—Subject to the direction of the said commission, the State forester shall, whenever he may be directed so to do by the said commission, cooperate with counties, municipalities, corporations, and individuals in preparing plans for the protection, management, and replacement of trees, wood lots, and timber tracts under an agreement that the parties obtaining such assistance shall pay the field and the traveling expenses of the man employed in preparing said plans.

SEC. 15.

State forester: Administrative and investigative duties of—Charge of wardens, laborers, fires, State forests—Report on waters—Cooperative work—Educational work—Reports and recommendations.—The State forester shall have the supervision and direction of all forest interests and of all matters pertaining to forestry within the State; he shall have charge of all forest wardens who may be appointed by said commission, and the appointment, direction, and superintendence of the persons and laborers whom the commission may deem it necessary to employ to perform labor in the forest reservations or the nurseries herein provided for; he shall take such action as is authorized by law to prevent and extinguish forest fires; enforce all laws pertaining to forest and woodlands; prosecute any violation of such laws; collect information relative to forest destruction and conditions; direct the protection and improvement of all forest reservations; make the investigation required by section seven of this act with reference to the streams and navigable rivers within and bordering upon the State, and report in writing with regard thereto to the said commission; cooperate with land owners as provided in section eight [thirteen] of this act; and, as far as his duties as State forester will permit, carry on an educational course on forestry at the University of Virginia for credit toward a degree of farmers' institutes and similar meetings within the State. He shall also recommend to said commission and prepare for its use plans for improving the State system of forest protection, management, and replacement, and prepare for said commission, annually, and also whenever required so to do by said commission, a report on the progress and conditions of State forest work.

SEC. 17.

Salary, etc., of State forester.—The salary of the State forester shall be fixed by the said commission, and shall not exceed two thousand dollars per annum, and he shall be paid reasonable traveling and field expenses actually incurred in the performance of his official duties.

SEC. 27.

Disposition of fines—Forest reserve fund, use of.—All money received as penalties for violations of the provisions of this act, less the cost of collection and not otherwise provided for, together with any amount obtained from the State forestry reserves, shall be paid into the State treasury, to the credit of the forest reserve fund, which fund is hereby created; and the moneys in said fund are hereby appropriated for purposes of forest protection, management, replacement, and extension, under the direction of the commission.

SEC. 28.

University of Virginia to defray expense of administration.—Prior to the meeting of the general assembly of Virginia in nineteen hundred and sixteen, the commission herein provided shall organize and put into

operation the purposes of this act, and the expenses incurred by this organization and its operation for that period of time shall be paid out of the budget of the University of Virginia.

SEC. 29.

Federal cooperation.—The said commission is hereby authorized to arrange with the United States forestry department in regard to co-operation in such instances as may be deemed necessary and of advantage to the State; provided, that in all co-operative work a sum of money shall be expended by the said United States forestry bureau equivalent to that expended by the State commission, and that the said commission may accept or reject the work of the United States forestry bureau.

PART II.—FIRES.

(This division comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel, and the administrative duties, of the State organization charged with the prevention, detection, control and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

SEC. 18. Ch. 195, L. 1914.

Forest wardens; Appointment—Compensation—Powers of, for protection of State forests, and fish and game.—Whenever the State geological commission considers it necessary, it may apply to the governor to commission such persons as it may designate to act as forest wardens of this State, to enforce the forest laws, and, under the direction of the board, to aid in carrying out the purposes of this act; but they shall be subject to removal at any time at the pleasure of the State geological commission. Such wardens shall receive such compensation from time to time as the State geological commission may allow them for special services. Forest wardens thus appointed shall, before entering upon the duties of their office, take the proper official oath before the clerk of the court of the county in which they reside, after which they shall, while holding said office, possess and exercise all the authority and power held and exercised by constables at common law and under the statutes of this State, so far as arresting and prosecuting persons for violations of any of the laws or rules and regulations enacted or made, or to be enacted or made, for the protection of the State forestry reserves, or for the protection of the fish and game contained therein, are concerned.¹

SEC. 19.

Wardens: Duties of—Arrests by—Fires, assistance in extinguishing—Account of expenses.—It shall be

the duty of the forest wardens to enforce all forest laws of this State;¹ to protect the State forest reserves, and to see that all rules, regulations and laws are enforced; to report violations of the law to the State forester; to assist in apprehending and convicting offenders, and to make an annual report to him as to forest conditions in their immediate neighborhood. When any forest warden shall see or have reported to him a forest fire, it shall be his duty immediately to repair to the scene of the fire and employ such persons and means as in his judgment seem expedient and necessary to extinguish said fire. He shall keep an itemized account of all expenses thus incurred and send such account immediately to the State forester.

SEC. 20.

Funds for forest protection—Action for cost of fire-fighting.—The boards of county supervisors of the several counties of this State are hereby authorized to levy and appropriate money for purposes of forest protection, improvement, and management; and said boards shall have recourse under an action at law for debt against any land owner, individual, or corporation on whose account they shall be obliged to pay out money for fighting fire for the amount which they shall have expended for such purpose.

SEC. 16.

Notice of fire, trespass, etc.—The State forester shall furnish notice, printed in large letters on cloth, calling attention to the dangers of forest fires and to trespass laws and their penalties, and to the rules and regulations of the commission, which notice shall be distributed by the State forester to forest wardens and posted by them in conspicuous places upon State forest reserves and along the highways.

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 1294D, CODE, 1904. * * *

Spark arresters on locomotives—Penalty.—(18²) No railroad company doing business in this State shall run on its road any locomotive not having an approved spark arrester. Every company violating the provisions of this section shall be fined ten dollars for each offense, and each day of running such locomotive shall be deemed a separate offense.

* * * * *

Rights of way to be kept clear.—(55) Every railroad company shall keep its right of way clear and free from

¹ For provisions concerning prosecutions, see Sec. 26, on p. 5.

² The wording of this subdivision (18) is identical with that of sec. 1264 (derived from an earlier act contained in the volume of Session Laws of 1883-4, p. 704).

weeds, high grass, and decayed timber, which, from their nature and condition, are combustible material, liable to take and communicate fire from passing trains to abutting or adjacent property.

* * * * *

Penalty.—(70) Any railroad company failing to comply with, or violating, or permitting any of its agents or employees to violate, any of the provisions of this chapter, or any valid order, rule, or regulation of the State corporation commission, relating to the provisions of this chapter, if not otherwise provided in this chapter, shall be fined not less than ten dollars nor more than five hundred dollars for each offense. [Chapter 4 of Act Concerning Public Service Corporations, Acts 1902-3-4, Extra Sess., p. 968.]

Sec. 1, Ch. 269, L. 1908 (Code Supp., 1910, p. 796).

Liability of companies, regardless of location of fire and condition of appliances.—Be it enacted by the general assembly of Virginia, That whenever any person shall sustain damage from fire occasioned by sparks or coals dropped or thrown from the engine or train of any railroad company, such company shall be liable for the damage so sustained, whether said fire shall have originated on said company's right of way or not, and whether or not such engine is equipped with proper spark-arresting appliances, and regardless of the condition in which such appliances may be.

Sec. 1, Ch. 392, L. 1908 (Code Supp., 1910, p. 856).

Insurable interest.—Be it enacted by the general assembly of Virginia, That every railroad company shall have, and is hereby invested with, an insurable interest in the property upon the route of any railroad operated by it, and may procure insurance thereupon in its own behalf for protection against any damage to said property by fire or otherwise, for which such company shall or might be liable.

Secs. 23, 25, Ch. 195, L. 1914. * * *

NOTE.—Civil liability.—Railroad companies are liable, as corporations, for damages and costs of extinguishing fires in cases in which they cause fires which result in injury. For full text of the provisions, see these sections on pp. 4 and 5.

Sec. 24.

Spark arresters, etc.—Ash pans—Fire boxes—Penalties.—Logging and railroad locomotives, donkey or threshing engines, and other engines and boilers, operated in, through or near forest or brush, which do not burn oil as fuel, shall be provided with appliances to prevent, as far as may be possible, the escape of fire and sparks from the smokestacks thereof, and with devices to prevent, as far as may be possible, the escape of fire from ash pans and fire boxes. Failure to comply with these requirements shall be a misdemeanor, punishable, upon conviction, by a fine of not less than ten dollars nor more than one hundred dollars for each and every offense committed.¹

Sec. 3859, Code, 1904.

Spark arresters on engines moved with steam—Penalty.—Any person, who moves any engine with steam on any road shall * * *. Such engine shall be provided with a good spark arrester in proper order and place, to prevent spreading fire. If any person violate any provision of this section he shall be fined not less than five nor more than twenty dollars. [L. 1883-4, p. 519.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

Sec. 3701, Code Supp., 1910.

Setting fire to woods, grass, etc.—Penalty.—If any person unlawfully and maliciously set fire to any woods, fence, grass, straw or other thing capable of spreading fire on lands, he shall be fined not less than five nor more than five hundred dollars, and be confined in jail not less than one nor more than twelve months, or in the discretion of the jury be confined in the penitentiary not less than one nor more than three years. [L. 1908, Ch. 40.]

Sec. 3702, Code, 1904.

Setting fire to woods, marshes, brush, etc., whereby another is damaged—Penalty.—If any person carelessly, negligently, or intentionally set any woods or marshes on fire, or set fire to any stubble, brush, straw, or inflammable substance, capable of spreading fire on lands, whereby damage is done to the property of another, he shall be fined not less than ten nor more than one hundred dollars. [L. 1887-8, p. 288.]

Sec. 23, Ch. 195, L. 1914.

Burning brush, etc.: precautions—Prima facie proof of wilfulness or neglect—Civil action and costs.—It shall be unlawful for any persons or corporations, as land owner, to set, or procure another to set, fire to any woods, brush, logs, leaves, grass, or clearing upon their own land, unless they have previously taken all possible care and precaution against the spread of such fire to other lands not their own, by previously having cut and piled the same, or carefully cleared around the land which is to be burned, so as to prevent the spread of such fire. The setting of fire contrary to the provisions of this section, or allowing it to escape to the injury of adjoining lands, shall be prima facie proof of wilfulness or neglect, and the land owners from whose land the fire originated shall be liable in a civil action for damages for the injury resulting from such fire, and also for the cost of fighting and extinguishing the same.

¹ For provisions concerning prosecutions, see sec. 26, on p. 5.

SEC. 25.

Liability to State or county for damage by fires, and expenses.—All individuals and corporations causing fires by violation of any of the provisions of this act shall be liable to the State or county in which the fire occurred for all damages the State or the county may sustain by such fire or fires, and, in addition thereto, to the full amount of all expenses incurred by the State or county in fighting or extinguishing said fire.

SEC. 26.

Jurisdiction in cases of prosecution—State's attorney to prosecute.—Justices of the peace for this State, in the county wherein the offense shall have been committed, shall have the jurisdiction to hear and determine all prosecutions for the purpose of enforcing fines and penalties collectible under the provisions of this act, not exceeding the amount of one hundred dollars, and of holding the offender, under proper bail if necessary, for hearing before the circuit court, and committing him to the county jail until hearing, if the required bail is not furnished. It shall be the duty of the Commonwealth's attorney of the several counties to prosecute all violators of this act.

PART III.—PUBLIC FORESTS.

(This division comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

SEC. 4, CH. 195, L. 1914.

Management of State forests, and funds.—The care, management and preservation of the forest reserves of the State hereafter to be acquired and established, and the forests thereon, as well as future growth thereon, and all moneys appropriated in that behalf, or collected therefrom in any way, and all personal and real property acquired to carry out the objects of this act, are hereby made subject to the control of the said State geological commission as the same may be herein or in subsequent acts defined and required.

* * * * *

SEC. 5.

Purchase of lands—Rules and regulations—Gifts of lands—Mineral and mining rights—Deeds.—Said commission shall have the power to purchase lands in the name of the State suitable for forest reserves, at a price which shall not exceed ten dollars per acre, using for such purposes any surplus money not otherwise appropriated which may be standing to the credit of the forest reserve fund, and to make and enforce all rules and regulations governing State reserves, the care and maintenance thereof, the preventing of trespassing thereon, and for the

conduct of its officers, agents, and employees; and it may accept gifts of land and money to the State for forestry purposes, the same to be held, protected, and administered by said commission as a State forest reserve, and to be used so as to demonstrate the practical utility of timber culture and as a breeding place for game. Such gifts must be absolute, except that mineral and mining rights over and under land which may be donated may be reserved by the donors, and that they may be subject to a stipulation that the lands shall be administered as State forest reserve, and the attorney general of the State is directed to see that all deeds to the State lands mentioned above are properly executed before the gift is accepted.

SEC. 6.

Title.—Before completing the purchase of any land for forestry purposes, the attorney general of the State shall see to it that a good title thereto is obtained and that the deed or deeds therefor are properly executed before payment is made of the purchase money.

SEC. 9.

Sale of Timber—Bids—Proceeds, disposal of.—For the purpose of preserving the living and growing timber and promoting the younger growth on forest reservations, said commission, upon the recommendation of the State forester, may cause to be designated and appraised so much of the dead, matured, or large growth of trees found upon the forest reservations of the State as may be compatible with the utilization of the forest thereon, and may sell the same for not less than the appraised value thereof. When the appraised value of the trees to be sold is more than one thousand dollars, said commission, before making sale thereof, shall receive bids therefor, after notice by publication once a week for four weeks in two newspapers of general circulation; but said commission shall have the right to reject any and all bids and to readvertise for bids. The proceeds arising from the sale of the timber and trees so sold shall be paid into the State treasury, and shall be held as a special fund for the purchase of additional lands, and shall be paid out in like manner as money appropriated for the use of said commission.

SEC. 10.

Leases, etc., for removal of gas, oil, etc.—Bids—Proceeds, disposal of.—The said commission is hereby empowered to make and execute contracts and leases, in the name of the Commonwealth, for the removal or mining of gas, oil, or any valuable minerals that may be found in said forestry reservations whenever it shall be made to appear to said commission that it would be for the best interest of the Commonwealth to make such disposition of such gas, oil, or minerals; but before a contract or lease is made the same shall be approved by the governor of the State, and bids therefor shall be received after notice by publication once a week for four weeks in two newspapers of general circulation. The said commission shall have the right to reject any or all bids and to readvertise for

bids. The accepted bidder shall give bond with good and sufficient surety to the satisfaction of said commission, and in such amount as it may fix for the faithful performance on his part of all the conditions and covenants of said contract or lease. The proceeds arising from any such contract or lease shall be paid into the State treasury, to be held and used for the same purpose as the proceeds from the sale of trees and timber, and be paid out in like manner.

SEC. 11.

Lands not subject to warrant, etc.—When lands have been acquired by the Commonwealth for forestry purposes, however the same may have been acquired, they shall not thereafter be subject to warrant, survey, or patent.

SEC. 14.

Nurseries—Seeds and seedlings.—The commission may establish and maintain a nursery, or nurseries, for the propagation of forest-tree seedlings, either upon one or more of the forest reservations of the State, or upon such other land as the said commission may and which it is hereby empowered to acquire for that purpose. Seedlings from this nursery shall be furnished to the Commonwealth without expense for use upon its forest reservations or other public grounds or parks. Seeds and seedlings may also be distributed to land owners and citizens of this Commonwealth under and subject to such rules and regulations as may be established by said commission.

SEC. 21.

Penalties for violations of rules and regulations.—Whoever violates any rule or regulation for the government or use of any State reservation or park, or road or boulevard traversing the same, shall, for such offense, be punished by a fine of not less than five dollars nor more than fifty dollars, and if the person so fined neglects or refuses to pay the same, he shall be committed to the jail of the

county, there to remain until such fine be paid, but not longer than one day for each and every two dollars of the fine imposed.¹

SEC. 22.

Fires and Trespass on State forests—Penalties.—Any person or persons who shall kindle fire upon any of the forestry reservations of this Commonwealth, except in accordance with such rules and regulations as may be prescribed by the said commission, or who shall cut and remove any timber whatever, or who shall do or cause to be done any act that will damage forest land or timber belonging to the Commonwealth, shall be guilty of a misdemeanor, and, upon conviction thereof, be subject to a penalty not exceeding five hundred dollars for each offense committed, with costs of suit. If the defendant or defendants neglect or refuse to pay the penalty and costs imposed, he or they shall be committed to the jail of the county, there to remain until such penalty and costs are paid, but no longer than one day for each and every two dollars of the fine and costs imposed.¹

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included, because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.

PART IV.—TAXATION.

(This division comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests or other State lands, see Part III.)

¹ For provisions concerning prosecutions, see sec. 26, on p. 5.

